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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,114	09/09/2003	Andrew Hartmann	71234_0076	2113
20915	7590	08/20/2004	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			LEV, BRUCE ALLEN	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/605,114	HARTMANN, ANDREW	
	Examiner Bruce A. Lev	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 09 September 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-37 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-37 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/9/03

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

U.S. Patent and Trademark Office
PTO-326 (Rev. 1-04)

Office Action Summary

Part of Paper No /Mail Date 08162004

DETAILED ACTION

Claim Objections

Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim (21, see line 21). Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 112

Claims 9-18 and 21-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As concerns claims 9 and 21, there is an inconsistency between the language in the preamble and certain portions in the body of the claims, thereby making the scope of the claims unclear. For example, the preamble clearly indicates that the subcombination of a “door” is being claimed with the functional recitation of the “door” being used “for selectively closing an opening in a trailer”. However, the body of the claim positively recites the “trailer”, e.g., “a bottom panel whose lower side is *adjacent the trailer bottom wall*” (claim 9, lines 9-10; and claim 21, lines 15-16), which indicates the claims as being drawn to a combination of the “door” and the “trailer”. Therefore, the applicant is required to clarify what the claims are intended to be drawn to, i.e., either the “door” alone or in combination with the “trailer”, and to present the claims with the language which is consistent with the invention. The applicant should note that

“adapted to be” language may be appropriate if claiming the “door” alone (i.e., “adapted to be secured to”).

As concerns claims 11, the phrase “the mounting plate” lacks antecedent basis and therefore renders the claim as vague and indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over *DeFalco in view of Aquilina 6,363,993*.

Defalco sets forth a roll-up door comprising multiple panels (including members 26 and 28) having spaced opposing surfaces and at least one elongated groove formed at an edge portion thereof; a hinge assembly (inclusive of member 36 and 38) being “snap-fit” to the panels at upper and lower edges through “snap-fit” compressible, spaced fastener fingers (including members 36b, 36c, 38b, and 38c) that are releasably received in at least one groove; axle seats (part of members 36g) and a wheel assembly (inclusive of members 44 and 46). ***What DeFalco does not set forth*** is the outer complimentary arcuate portions on the panels upper and lower edges filling a gap at the facing edges as the panels rotate about the hinge. However, *Aquilina teaches*

forming outer complimentary arcuate portions (inclusive of members 60, 62, 70, and 72) on respective panels upper and lower edges to fill a gap at the facing edges as the panels rotate about the hinge. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the panel edges of DeFalco (inclusive of edges 36d, 38a, and 38b) by incorporating outer complimentary arcuate portions on the panels upper and lower edges, as taught by Aquilina, in order to fill a gap at the facing edges as the panels rotate about the hinge and thereby reduce the risk of a person's appendage becoming pinched therebetween. The applicant is reminded that the process by which a member or apparatus is made, i.e., *extruding and/or integration of parts*, is not considered as patentable subject matter within an apparatus claim.

Claims 9-11, 13-28, 31-33, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***DeFalco in view of Rosehitz 3,622,189***.

Defalco sets forth a roll-up door comprising multiple panels (including members 26 and 28) having opposing walls and sides, wherein the panels being stacked and hinged; a hinge assembly (inclusive of member 36 and 38); and a latch assembly (illustrated in Figure 1); and wheel assemblies having a roller and axles received in sockets within the panels. ***What DeFalco does not set forth*** is the latch being (at least partially) within a recess of the exterior wall of a bottom panel via mounting supports, a mounting plate, a channel, and recesses. However, ***Rosehitz teaches*** forming a latch member (at least partially) within a recess of an exterior wall of a bottom panel of a

roller door via mounting supports, a mounting plate, a channel, and recesses (that "can be" used for receiving reflectors). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the door of DeFalco by forming the latch as being (at least partially) within a recess of an exterior wall of the bottom panel of a roller door via mounting supports, a mounting plate, a channel, and recesses, as taught by Rosehitz, in order to more securely mounting and operate the latch mechanism. The applicant should once again note that the process by which a member or apparatus is made, i.e., *extruding and/or integration of parts, is not* considered as patentable subject matter within an apparatus claim.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over **DeFalco in view of Rosehitz further in view of Yane 5,421,627.**

Defalco in view of Rosehitz set forth the roll-up door, as advanced above, except for the alignment indicia. However, **Yane teaches** the use of alignment indicia within a door latch configuration. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the door of DeFalco in view of Rosehitz by incorporating alignment indicia, as taught by Yane, in order to more securely and easily align and connect the latch members.

Claims 29, 30, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over **DeFalco in view of Rosehitz further in view of Jarvis et al 5,411,782.**

Defalco in view of Rosehitz set forth the roll-up door, as advanced above, except for the end caps. However, **Jarvis et al teach** the use of end caps within a door panel configuration. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the door of DeFalco in view of Rosehitz by incorporating end caps, as taught by Jarvis et al, in order to removably close the end of the door panels to thereby offer access into the interiors of the door panels.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

8/16/2004



Bruce A. Lev
Primary Examiner
Group 3600